

opt-in unit becomes a CAIR NO_x unit under § 97.104; and

(B) If the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under § 97.104 is not December 31, the CAIR NO_x allowances allocated to the CAIR NO_x opt-in unit under § 97.188 for the control period that includes the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under § 97.104, multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under § 97.104 divided by the total number of days in the control period and rounded to the nearest whole allowance as appropriate.

(ii) The CAIR designated representative shall ensure that the compliance account of the source that includes the CAIR NO_x opt-in unit that becomes a CAIR NO_x unit under § 97.104 contains the CAIR NO_x allowances necessary for completion of the deduction under paragraph (b)(2)(i) of this section.

(3)(i) For every control period after the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under § 97.104, the CAIR NO_x opt-in unit will be allocated CAIR NO_x allowances under § 97.142.

(ii) If the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under § 97.104 is not December 31, the following amount of CAIR NO_x allowances will be allocated to the CAIR NO_x opt-in unit (as a CAIR NO_x unit) under § 97.142 for the control period that includes the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under § 97.104:

(A) The amount of CAIR NO_x allowances otherwise allocated to the CAIR NO_x opt-in unit (as a CAIR NO_x unit) under § 97.142 for the control period multiplied by;

(B) The ratio of the number of days, in the control period, starting with the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under § 97.104, divided by the total number of days in the control period; and

(C) Rounded to the nearest whole allowance as appropriate.

§ 97.188 CAIR NO_x allowance allocations to CAIR NO_x opt-in units.

(a) *Timing requirements.* (1) When the CAIR opt-in permit is issued under § 97.184(e), the permitting authority will allocate CAIR NO_x allowances to the CAIR NO_x opt-in unit, and submit to the Administrator the allocation for the control period in which a CAIR NO_x opt-in unit enters the CAIR NO_x Annual Trading Program under § 97.184(g), in accordance with paragraph (b) or (c) of this section.

(2) By no later than October 31 of the control period after the control period in which a CAIR NO_x opt-in unit enters the CAIR NO_x Annual Trading Program under § 97.184(g) and October 31 of each year thereafter, the permitting authority will allocate CAIR NO_x allowances to the CAIR NO_x opt-in unit, and submit to the Administrator the allocation for the control period that includes such submission deadline and in which the unit is a CAIR NO_x opt-in unit, in accordance with paragraph (b) or (c) of this section.

(b) *Calculation of allocation.* For each control period for which a CAIR NO_x opt-in unit is to be allocated CAIR NO_x allowances, the permitting authority will allocate in accordance with the following procedures, if provided in a State implementation plan revision submitted in accordance with § 51.123(p)(3)(i), (ii), or (iii) of this chapter and approved by the Administrator:

(1) The heat input (in mmBtu) used for calculating the CAIR NO_x allowance allocation will be the lesser of:

(i) The CAIR NO_x opt-in unit's baseline heat input determined under § 97.184(c); or

(ii) The CAIR NO_x opt-in unit's heat input, as determined in accordance with subpart HH of this part, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR NO_x opt-in unit enters the CAIR NO_x Annual Trading Program under § 97.184(g).

(2) The NO_x emission rate (in lb/mmBtu) used for calculating CAIR NO_x allowance allocations will be the lesser of:

(i) The CAIR NO_x opt-in unit's baseline NO_x emissions rate (in lb/mmBtu)

[65 FR 2727, Jan 18, 2000, as amended at 71 FR 74795, Dec. 13, 2006]

determined under § 97.184(d) and multiplied by 70 percent; or

(ii) The most stringent State or Federal NO_x emissions limitation applicable to the CAIR NO_x opt-in unit at any time during the control period for which CAIR NO_x allowances are to be allocated.

(3) The permitting authority will allocate CAIR NO_x allowances to the CAIR NO_x opt-in unit in an amount equaling the heat input under paragraph (b)(1) of this section, multiplied by the NO_x emission rate under paragraph (b)(2) of this section, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

(c) Notwithstanding paragraph (b) of this section and if the CAIR designated representative requests, and the permitting authority issues a CAIR opt-in permit (based on a demonstration of the intent to repower stated under § 97.183(a)(5)) providing for, allocation to a CAIR NO_x opt-in unit of CAIR NO_x allowances under this paragraph (subject to the conditions in §§ 97.184(h) and 97.186(g)), the permitting authority will allocate to the CAIR NO_x opt-in unit as follows, if provided in a State implementation plan revision submitted in accordance with (51.123(p)(3)(i), (ii), or (iii) of this chapter and approved by the Administrator:

(1) For each control period in 2009 through 2014 for which the CAIR NO_x opt-in unit is to be allocated CAIR NO_x allowances,

(i) The heat input (in mmBtu) used for calculating CAIR NO_x allowance allocations will be determined as described in paragraph (b)(1) of this section.

(ii) The NO_x emission rate (in lb/mmBtu) used for calculating CAIR NO_x allowance allocations will be the lesser of:

(A) The CAIR NO_x opt-in unit's baseline NO_x emissions rate (in lb/mmBtu) determined under § 97.184(d); or

(B) The most stringent State or Federal NO_x emissions limitation applicable to the CAIR NO_x opt-in unit at any time during the control period in which the CAIR NO_x opt-in unit enters the CAIR NO_x Annual Trading Program under § 97.184(g).

(iii) The permitting authority will allocate CAIR NO_x allowances to the

CAIR NO_x opt-in unit in an amount equaling the heat input under paragraph (c)(1)(i) of this section, multiplied by the NO_x emission rate under paragraph (c)(1)(ii) of this section, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

(2) For each control period in 2015 and thereafter for which the CAIR NO_x opt-in unit is to be allocated CAIR NO_x allowances,

(i) The heat input (in mmBtu) used for calculating the CAIR NO_x allowance allocations will be determined as described in paragraph (b)(1) of this section.

(ii) The NO_x emission rate (in lb/mmBtu) used for calculating the CAIR NO_x allowance allocation will be the lesser of:

(A) 0.15 lb/mmBtu;

(B) The CAIR NO_x opt-in unit's baseline NO_x emissions rate (in lb/mmBtu) determined under § 97.184(d); or

(C) The most stringent State or Federal NO_x emissions limitation applicable to the CAIR NO_x opt-in unit at any time during the control period for which CAIR NO_x allowances are to be allocated.

(iii) The permitting authority will allocate CAIR NO_x allowances to the CAIR NO_x opt-in unit in an amount equaling the heat input under paragraph (c)(2)(i) of this section, multiplied by the NO_x emission rate under paragraph (c)(2)(ii) of this section, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

(d) *Recordation.* If provided in a State implementation plan revision submitted in accordance with § 51.123(p)(3)(i), (ii), or (iii) of this chapter and approved by the Administrator:

(1) The Administrator will record, in the compliance account of the source that includes the CAIR NO_x opt-in unit, the CAIR NO_x allowances allocated by the permitting authority to the CAIR NO_x opt-in unit under paragraph (a)(1) of this section.

(2) By December 1 of the control period in which a CAIR NO_x opt-in unit enters the CAIR NO_x Annual Trading Program under § 97.184(g) and December 1 of each year thereafter, the Administrator will record, in the compliance

account of the source that includes the CAIR NO_x opt-in unit, the CAIR NO_x allowances allocated by the permitting authority to the CAIR NO_x opt-in unit under paragraph (a)(2) of this section.

APPENDIX A TO SUBPART II OF PART 97—
STATES WITH APPROVED STATE IM-
PLEMENTATION PLAN REVISIONS CON-
CERNING CAIR NO_x OPT-IN UNITS

1. The following States have State Implementation Plan revisions under §51.123(p)(3) of this chapter approved by the Administrator and establishing procedures providing for CAIR NO_x opt-in units under subpart II of this part and allocation of CAIR NO_x allowances to such units under §97.188(b):

[Reserved]

2. The following States have State Implementation Plan revisions under §51.123(p)(3) of this chapter approved by the Administrator and establishing procedures providing for CAIR NO_x opt-in units under subpart II of this part and allocation of CAIR NO_x allowances to such units under §97.188(c):

[Reserved]

**Subpart AAA—CAIR SO₂ Trading
Program General Provisions**

§ 97.201 Purpose.

This subpart and subparts BBB through III set forth the general provisions and the designated representative, permitting, allowance, monitoring, and opt-in provisions for the Federal Clean Air Interstate Rule (CAIR) SO₂ Trading Program, under section 110 of the Clean Air Act and §52.36 of this chapter, as a means of mitigating interstate transport of fine particulates and sulfur dioxide.

§ 97.202 Definitions.

The terms used in this subpart and subparts BBB through III shall have the meanings set forth in this section as follows:

Account number means the identification number given by the Administrator to each CAIR SO₂ Allowance Tracking System account.

Acid Rain emissions limitation means a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program.

Acid Rain Program means a multi-state sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the Ad-

ministrator under title IV of the CAA and parts 72 through 78 of this chapter.

Administrator means the Administrator of the United States Environmental Protection Agency or the Administrator's duly authorized representative.

Allocate or allocation means, with regard to CAIR SO₂ allowances issued under the Acid Rain Program, the determination by the Administrator of the amount of such CAIR SO₂ allowances to be initially credited to a CAIR SO₂ unit or other entity and, with regard to CAIR SO₂ allowances issued under §97.288 or provisions of a State implementation plan that are approved under §51.124(o)(1) or (2) or (r) of this chapter, the determination by a permitting authority of the amount of such CAIR SO₂ allowances to be initially credited to a CAIR SO₂ unit or other entity.

Allowance transfer deadline means, for a control period, midnight of March 1 (if it is a business day), or midnight of the first business day thereafter (if March 1 is not a business day), immediately following the control period and is the deadline by which a CAIR SO₂ allowance transfer must be submitted for recordation in a CAIR SO₂ source's compliance account in order to be used to meet the source's CAIR SO₂ emissions limitation for such control period in accordance with §97.254.

Alternate CAIR designated representative means, for a CAIR SO₂ source and each CAIR SO₂ unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with subparts BBB and III of this part, to act on behalf of the CAIR designated representative in matters pertaining to the CAIR SO₂ Trading Program. If the CAIR SO₂ source is also a CAIR NO_x source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO_x Annual Trading Program. If the CAIR SO₂ source is also a CAIR NO_x Ozone Season source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO_x Ozone Season Trading Program. If the CAIR SO₂ source is also subject to the Acid Rain